

**Filed 2/12/15 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2015 ND 19

State of North Dakota,

Plaintiff and Appellee

v.

Marlin Lee Johnson,

Defendant and Appellant

No. 20140286

Appeal from the District Court of Grand Forks County, Northeast Central
Judicial District, the Honorable Lawrence E. Jahnke, Judge.

AFFIRMED.

Per Curiam.

Lee M. Grossman, P.O. Box 475, Valley City, ND 58072, for plaintiff and
appellant; submitted on brief.

Andrew C. Eyre, Assistant State's Attorney, Grand Forks County State's
Attorney's Office, P.O. Box 5607, Grand Forks, ND 58206; submitted on brief.

State v. Johnson

No. 20140286

Per Curiam.

[¶1] Marlin Lee Johnson appeals from a district court order revoking probation and resentencing him to 30 months of incarceration with credit for 155 days served. On appeal, Johnson argues the district court abused its discretion when it revoked his probation and resentenced him to a term of incarceration greater than the term included in the plea agreement he entered into with the State. We summarily affirm the district court's order revoking probation and resentencing Johnson, under N.D.R.App.P. 35.1(a)(4) and (7). See Peltier v. State, 2003 ND 27, ¶ 20, 657 N.W.2d 238 (concluding a district court is not bound by the terms of a plea agreement, when sentencing a defendant after revocation of probation).

[¶2] Gerald W. VandeWalle, C.J.
Lisa Fair McEvers
Daniel J. Crothers
Dale V. Sandstrom
Carol Ronning Kapsner